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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,616	10/20/2003	Drew James Van Norman	87358.2160	2584
7590	12/04/2006			EXAMINER BERTHEAUD, PETER JOHN
BAKER & HOSTETLER LLP Suite 1100 Washington Square 1050 Connecticut Avenue, N.W. WASHINGTON, DC 20036			ART UNIT 3746	PAPER NUMBER

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/687,616	NORMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter J. Bertheaud	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 October 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) 1-5, 11-13 and 18-24 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 6-10 and 14-17 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 20 October 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of claims 6-10 and 14-17 in the reply filed on October 17, 2006 is acknowledged. The transversal is on the ground(s) that examination of the entire application can be made without serious burden. This is not found persuasive because it was explained that a serious burden would be placed on the examiner due to the inventions requiring a different field of search.
2. Claims 1-5, 11-13, and 20-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method and invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 17, 2006.
3. Claims 18-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 17, 2006.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 6 and 10 recites the limitation "the motor/gearbox assembly" in line 3 of claim 6 and lines 4 and 8 of claim 10. There is insufficient antecedent basis for this limitation in claim 6.

6. Claims 6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, line 2 a motor/drive assembly is defined by having an output shaft. In the following line a motor/gearbox assembly is also defined as having an output shaft. The term "motor/gearbox" is referred to again in claim 10. The terms "motor/drive" and "motor/gearbox" are believed to have a similar meaning and therefore are being used interchangeably. One term should be chosen and used consistently throughout the claim language.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 6, 9, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Oehman, Jr. 6,764,284.

Oehman, Jr. discloses a pump mount assembly comprising: driving means 11 having an output shaft 26; pumping means 14 having an input shaft 42 matable with the driving means output shaft; and an adapter or aligning means 57 rigidly coupled between the driving means and the pumping means for aligning the driving means and

the pumping means, and having a bore therethrough to permit at least one of the output shaft and the input shaft to pass therethrough (see Figs. 3 and 4). Oehman, Jr. also discloses that the adapter is a unitary part (see 57 in Fig. 4).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oehman, Jr. 6,764,284 in view of Abelen 5,178,522.

Oehman, Jr. discloses the invention as discussed above. However, Oehman, Jr. does not disclose that a supporting means, or a base, is rigidly coupled to the adapter body as well as the pump assembly.

Abelen teaches a vacuum pump assembly including a drive motor 4, a motor output shaft 53, and a pump within a housing 2. Abelen further teaches an adapter 6, defined by a bore therethrough, on which both the drive motor 4 and the pump housing 2 are mounted. Abelen teaches that a supporting means, or a base 7, is rigidly coupled to the adapter body (see col. 2, lines 31-34). Abelen teaches that this would be advantageous because by attaching the assembly to a base it can be easily placed on a flat surface such as a floor.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the pump mount assembly of Oehman, Jr. by implementing a base

coupled to the adapter, as taught by Abelen, in order to allow the pump to can on a flat surface such as a floor (see col. 2, lines 31-34).

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oehman, Jr. 6,764,284 in view of Abelen 5,178,522, and in further view of Lower 4,523,897.

Oehman, Jr. in view of Abelen discloses the invention as discussed above. However, Oehman, Jr. in view of Abelen does not show that the base is also rigidly coupled to the pump assembly.

Lower teaches a two stage vacuum pump assembly including a pump housing 10, an electric motor 12, and a base plate 14. Lower further teaches a pump shaft 68 coupled to a motor shaft 44 by coupling 42, which is contained in between the pump and motor in compartment 40. Lower teaches that the base plate 14 is rigidly coupled to the pump assembly (see 14 in Fig. 3 and col. 2, lines 64-66). Lower teaches that this would be advantageous because the base plate encloses the underside of the housing.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the pump mount assembly of Oehman, Jr. in view Abelen by coupling the base to the pump assembly, as taught by Lower, in order to enclose the underside of the housing (see 14 in Fig. 3 and col. 2, lines 64-66).

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oehman, Jr. 6,764,284 in view of Lower 4,523,897.

Oehman, Jr. discloses the invention as discussed above. However, Oehman, Jr. does not show that the supporting means is rigidly coupled to the pumping means.

Lower teaches a two stage vacuum pump assembly including a pump housing 10, an electric motor 12, and a supporting means 14. Lower further teaches a pump shaft 68 coupled to a motor shaft 44 by coupling 42, which is contained in between the pump and motor in compartment 40. Lower teaches that the supporting means 14 is rigidly coupled to the pump assembly (see 14 in Fig. 3 and col. 2, lines 64-66). Lower teaches that this would be advantageous because the supporting means encloses the underside of the housing.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the pump mount assembly of Oehman, Jr. by coupling the base to the pump assembly, as taught by Lower, in order to enclose the underside of the housing (see 14 in Fig. 3 and col. 2, lines 64-66).

13. Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oehman, Jr. 6,764,284 in view of Eberhardt 4,786,239.

Oehman, Jr. discloses the invention as discussed above, as well as a first face having a counterbore (see 57 in Fig. 4); and a bore extending from the front face to a second face through the adapter or aligning means 57 to permit a shaft to pass through between the pumping means and the driving means (see Fig. 3). However, Oehman, Jr. does not disclose that the second face has at least two mounting holes that receive shoulder screws threadable into the pumping means.

Eberhardt teaches pumping system including a motor 10, a pump 12, and a pump drive shaft 24 coupled to a motor output shaft 11. Eberhardt further teaches an adaptor or aligning means (see part directly to the left of the pump 12) defined by a first

face having a counterbore and second face having at least two mounting holes that receive shoulder screws threadable into the pumping means (see Figs. 1 and 2 particularly screws that connect the adapter to 12). Eberhardt teaches that this would be advantageous because the adapter supports the fuel supply for the motor and therefore needs a tightly sealed connection between the motor and the pump.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the pump mount assembly of Oehman, Jr. by modifying the second face of the adapter the have at least two mounting holes that receive shoulder screws threadable into the pumping means, as taught by Eberhardt, in order to provide a support for the fuel supply for the motor and to seal the connection between the motor and the pump (see col. 2, lines 54-57).

***Conclusion***

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- 14. The prior art made of record, noted in the attached form 892, and not relied upon is considered pertinent to applicant's disclosure.
- 15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Bertheaud whose telephone number is (571) 272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Peter Binkley*  
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11/28/06 *Ehud Gartenberg*

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